

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 1329 of 2006****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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Whether Reporters of Local Papers
1 may be allowed to see the
judgment ?

2 To be referred to the Reporter or
not ?

3 Whether their Lordships wish to see
the fair copy of the judgment ?

Whether this case involves a
substantial question of law as to
4 the interpretation of the
constitution of India, 1950 or any
order made thereunder ?

5 Whether it is to be circulated to
the civil judge ?

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UNION OF INDIA & 1 - Petitioner(s)**Versus****GANPAT L KACHHAVA & 4 - Respondent(s)**

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Appearance :

MS MEGHA JANI for Petitioner(s) : 1 - 2.

MR MAHENDRA U VORA for Respondent(s) : 1,

RULE NOT RECD BACK for Respondent(s) : 2,4 - 5.

RULE SERVED for Respondent(s) : 3,

MS DHARMISHTHA RAVAL ON BEHALF OF MS KALPANA K

RAVAL for Respondent(s) : 3, 5,

MS AVANI S MEHTA for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 27/04/2006

CAV JUDGMENT

1.The Union of India, through its General Manager, Western Railway and another are constrained to approach this Court by way of this petition under Articles 226 and 227 of the Constitution of India challenging the orders passed in Application No.OC-0500005 and in Application No.OC-0500010, by the Member (Judicial), Railway Claims Tribunal, Ahmedabad Bench, Ahmedabad dtd.6/10/2005, by which the Member (Judicial), Railway Claims Tribunal, Ahmedabad Bench, Ahmedabad has set aside order No.RCD/DLI/Judicial Policy/02-03 dtd.14/9/2005 issued by the Chairman, Railway Claims Tribunal, Principal Bench, New Delhi in exercise of the powers under sub-sec. (4) of sec.4 of the Railways Claims Tribunal Act,

1987 (hereinafter referred to as “the Act” for convenience), by which the Chairman, Railway Claims Tribunal has issued an administrative order directing the claim application having pecuniary jurisdiction of more than Rs.2 Lacs will be heard by the Division Bench and having pecuniary jurisdiction of less than Rs.2 Lacs will be heard by the Single Member Bench. The Member (Judicial) has further passed an order directing the Chairman, Railway Claims Tribunal to issue a fresh order under sub-sec.(4) of sec.4 read with sec.13 of the Act in its true letter and spirit. The Member (Judicial) has also further passed an order that till issuance of the fresh order as stated above, all the claim petitions / applications are kept sine-die. Considering the fact that all the claim applications before the Railway Claims Tribunal are adjourned sine-die and working of the Railway Claims Tribunal has been paralysed since many months and ultimately the claimants are suffering and looking to the urgency and controversy in question, this Court has taken up the

hearing of the present petition urgently and heard the learned advocates appearing on behalf of the parties at length.

2. At the outset, it is to be noted with regret and this Court is at pain to discuss the unnecessary controversy which has been arisen due to the avoidable order passed by the Member (Judicial). At the outset, it is to be observed and further as stated hereinafter that the Member (Judicial), Railway Claims Tribunal in the present case has acted absolutely without jurisdiction and has created unnecessary controversy by quashing and setting aside the administrative order passed by the Chairman, Railway Claims Tribunal, Delhi.

3. The following facts are necessary for the determination of the present petition.

4. As per the Statement of Object and reasons for the Railway Claims Tribunal Act, 1987, the substantive law

of the railway administration for loss, destruction, damage, non-delivery or deterioration of goods entrusted to them for carriage, and for death or injury, or loss, etc. to a passenger in railway accident involving a train is laid down in the Indian Railways Act, 1890. The consignor/consignees and passengers or their representatives prefer claims for compensation against the railway administration. Those who claim compensation for loss of, or damage to booked goods and are not satisfied with the decisions of the railway administration, file suits in the Courts of law. Considering the fact that the litigation in the Courts of law and before the claims Commissioner were very protracted, it was decided to setup a specialized Tribunal for speedy adjudication of such claims and the Railway Claims Tribunal Act, 1987 came to be enacted and it was decided to setup of such Claims Tribunal with benches in different part of the country and with Judicial and Non-Judicial Members and it was with view to provide much relief to the railway users by way of

expeditiously payment of compensation to the victim of railway accident and to those whose goods are lost or damaged in rail transit. The relevant provisions of Act of 1987 provides that;

- (a) the jurisdiction, powers and authority which may be exercised by the Claims Tribunal;
- (b) the procedure (including provisions as to limitation) to be followed by the Claims Tribunal;
- (c) the exclusion of jurisdiction of all courts exercising ordinary original civil jurisdiction relating to specified claims for compensation and refund against railway administration;
- (d) the transfer to the Claims Tribunal of any suit or other proceedings, other than an appeal pending before any court or other authority immediately before the establishment of such Claims Tribunal as would have been within the jurisdiction of such Claims Tribunal if the cause of action on which such suits or proceedings are based had arisen after such

establishment.

In exercise of the powers conferred by clauses (c),(e) and (g) of sub-section 30 of the Railway Claims Tribunal Act, 1987, the Central government has also made rules named and called as Railway Claims Tribunal (Procedure) Rules, 1989. The relevant provisions of the Act and the Rules for the purpose of determination of the present petition are as under;

Sec.2(c). "Bench" means a Bench of the Claims Tribunal;

Sec.2(d) "Chairman" means the Chairman of the Claims Tribunal;

Sec.2(e) "Claims Tribunal" means the Railway Claims Tribunal established under section 3;

Sec.2(f). "Judicial Member" means a Member of the

Claims Tribunal appointed as such under this Act, and includes the Chairman or Vice-Chairman who possesses any of the qualifications specified in subsection (3) of Section 5;

Sec.2(g). "Member" means a Member (whether Judicial or Technical) of the Claims Tribunal, and includes the Chairman and Vice-Chairman;

Sec.3. Establishment of Railway Claims Tribunal.- The Central Government shall, by notification, establish a Claims Tribunal to be known as the Railway Claims Tribunal to exercise the jurisdiction, power and authority conferred on it by or under this Act.

Sec.4. Composition of Claims Tribunal and Benches thereof.

(1)The Claims Tribunal shall consist of a Chairman, four Vice-Chairman and such member of Judicial Member and Technical Member as the Central

Government may deem fit and subject to other provisions of this Act, the jurisdiction, powers and authority of the Claims Tribunal may be exercised by Benches thereof.

(2) Subject to other provisions of this Act, a Bench shall consist of one Judicial Member and one Technical Member.

(3) Notwithstanding anything contained in sub-section (1), the Chairman-

(a) may, in addition to discharging the functions of the Judicial Member or the Technical Member of the Bench to which he is appointed, discharge the functions of the Judicial Member or, as the case may be, the Technical Member, of any other Bench;

(b) may transfer a Vice-Chairman or the Technical Member appointed to one Bench to discharge also the functions of the Vice-Chairman or, as the case may be, the Judicial Member or the Technical

Member of another Bench;

4. Notwithstanding anything contained in the foregoing provisions of this Section, it shall be competent for the Chairman or any other Member authorized by the Chairman in this behalf to function as a Bench consisting of a single Member and exercise the jurisdiction, powers and authority of the Claims Tribunal in respect of such classes of cases or such members pertaining to such classes of cases as the Chairman may, by general or special order, specify;

Provided that if at any stage of the hearing of any such case or matter, it appears to the Chairman or such Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the Chairman or, as the case may be, referred to him for transfer, to such Bench as the Chairman may deem fit.

(5) Subject to other provisions of this Act, the Benches shall sit at such places as the Central Government may, by notification, specify.

Sec.13. Jurisdiction power and authority of Claims Tribunal.-(1) The Claims Tribunal shall exercise, on and from the appointed day, all such jurisdiction, powers and authority as were exercisable immediately before that day by any civil court or a Claims Commissioner appointed under the provisions of the Railways Act-

(a) relating to the responsibility of the railway administration as carriers under Chapter VII of the Railways Act in respect of claims for-

(i) compensation for loss, destruction, damage, deterioration or non-delivery of animals or goods entrusted to a railway administration for carriage by railway;

- (ii) compensation payable under section 82-A of the Railways Act or the rules made thereunder; and
- (b) in respect of the claims for refund of fares or part thereof or for refund of any freight paid in respect of animals or goods entrusted to a railway administration to be carried by railway.

[“(1-A). The Claims Tribunal shall also exercise, on and from the date of commencement of the provisions of Section 124-A of the Railways Act, 1989, all such jurisdiction, powers and authority as were exercisable immediately before that date by any civil court in respect of claims for compensation now payable by the railway administration under Section 124-A of the said Act or the rules made thereunder”.]

(2) The provisions of [Railway Act, 1989] and the rules made thereunder shall, so far as may be, be applicable to the inquiring into or determining, any claims by the Claims Tribunal under this Act.

Sec.14. Distribution of business amongst Benches-.

(1)Where any Benches are constituted, the Central Government may, from time to time, by notification, make provisions as to distribution of the business of the Claims Tribunal amongst the Benches and specify the matters which may be dealt with by each Bench.

(2)If any question arises as to whether any matter falls within the purview of the business allocated to a Bench, the decision of the Chairman shall be final.

Explanation-- For the removal of doubts, it is hereby declared that the expression "matters" includes an application under sec.20.

Sec.15. Bar of jurisdiction.--On and from the appointed day, no court or other authority shall have, or be entitled to, exercise any jurisdiction, powers or authority in relation to the matters referred to in [sub-sections (1) and (1-A)] of Section 13.

Sec.21. Decision to be by majority.-- If the Member of a Bench differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.

5.It appears from the record that presently the Claims Tribunal has 21 Benches including Principal Bench in Delhi spread over in 18 Districts in 15 States of India . Besides, the Chairman of the Bench comprises of four

Vice-Chairman and 37 Members. As stated hereinabove, under Sec.4(2) of the Railways Tribunal Act, a Bench of Tribunal shall consist of one Judicial Member and one Technical Member. That due to large number of vacancies in the Tribunal, both Member (Judicial) and Member (Technical) are not in position in many of the Benches and these Benches are presided over by a Single Member. It is the case on behalf of the railway administration that with a view to ensure that the Benches function smoothly and work does not suffer, the then Chairman of the Tribunal by an order dtd.12/3/1990 by virtue of the powers vested in him under sec.4(4) of the Act authorized all the Vice-Chairman and the Judicial Members of the Tribunal to exercise the jurisdiction, powers and authority of the Tribunal in respect of the claims entertainable under sub-clause(i) & (ii) of clause (a) of Sec.13(1) of the Act upto the valuation of Rs.1,000.00. It appears that the pecuniary jurisdiction of the Single Member Bench to try cases has been raised from time to time and lastly

by order dtd.14/9/2005, the Chairman in exercise of the powers conferred upon him under Sec.4(4) of the Act raised the pecuniary jurisdiction of the Single Member Bench in all the Benches of the Tribunal from Rs.1 Lac to Rs.2 Lacs. It appears from the record that Application No.OC-0500005 and Application No.OC-0500010 were placed before the Ahmedabad Bench and the Member (Judicial) namely Dr.G.R. Sharma was of the opinion that the Chairman has no jurisdiction to decide the pecuniary jurisdiction of the Single Member of the Bench in exercise of the powers under sec.4(4) of the Act. According to him, the classes of cases or such matters pertaining to such classes of cases can be specified or notified by the Chairman in terms of sec.4(4) read with sec.13 of the Act of 1987 by issuing a fresh or general order conferring jurisdiction, powers, competence and/or authority on the Single Member Bench or Division Bench of the Tribunal relating to the classes of cases and therefore, the Member (Judicial), Railway Claims Tribunal by its impugned order 6/10/2005

quashed and set aside the order issued by the Chairman, Railway Claims Tribunal dtd.14/9/2005 enhancing pecuniary jurisdiction of the Single Bench in all Benches of the Tribunal from Rs.1 Lac to Rs.2 Lacs and directed the Chairman to issue a fresh order in terms of of sub-sec.(4) of sec.4 read with sec.13 of the Act in its true spirit by expressly specifying classes of cases or such matters pertaining to such classes of cases for being assigned to the Single Member Bench or the Division Bench of the Railway Claims Tribunal, as the case may be and has further passed an order that till such issuance of fresh order , the claim petitions be adjourned sine-die. Being aggrieved by and dissatisfied with the aforesaid orders passed by the Member (Judicial), Railway Claims Tribunal, Ahmedabad Bench, Ahmedabad in quashing and setting aside the administrative order issued by the Chairman, Railway Claims Tribunal, New Delhi, in exercise of the powers under sec.4(4) of the Act, the petitioners - railway administration have preferred the present petition

under Articles 226 and 227 of the Constitution of India.

6.Initially, the Member (Judicial) Dr.GC Sharma was joined as party respondent No.3. However, his name was deleted and the Railway Claims Tribunal, Ahmedabad Bench, Ahmedabad was joined as party respondent, to be served through the Registrar and Union of India, Ministry of Railways as well as the Chairman, Railway Claims Tribunal, were joined as party respondent Nos.4 and 5.

7.At the time of hearing of the present petition, the Member (Judicial), Railway Claims Tribunal, Ahmedabad Bench appeared before this Court by way of an application permitting him to be joined as party respondent to support his order, which is impugned in the present petition. Normally, the authority / tribunal whose orders are challenged are not required to be joined as party respondent and they cannot be permitted to submit that their judicial / quasi judicial

orders are just, legal and proper. The Member (Judicial) whose orders are challenged are never heard by the higher forum. However, in the peculiar facts and circumstances of the case and as such there was no opposition from the otherside in the main petition and only with a view to assist the Court, said Dr. Sharma, Member (Judicial), Railway Claims Tribunal, Ahmedabad Bench was permitted to be joined as party respondent, without citing the same as precedent and therefore, the said Dr.Sharma is also heard at length.

8.Ms.Megha Jani, learned advocate appearing on behalf of the petitioners has vehemently submitted that the impugned orders passed by the Member (Judicial), Railway Claims Tribunal, Ahmedabad Bench, Ahmedabad, quashing and setting aside the administrative order issued by the Chairman, Railway Claims Tribunal in exercise of the powers under sec.4(4) of the Act, whereby the pecuniary jurisdiction of the Single Member Bench is enhanced in all

Benches from Rs.1 Lac to Rs.2 Lac, is absolutely without jurisdiction and authority under the law. She has further submitted that the Member (Judicial) of the Tribunal has no jurisdiction to set aside the administrative order issued by the Chairman and therefore, the same requires to be quashed and set aside. It is further submitted by her that if the members of the Tribunal are permitted to set aside the administrative order passed by the Chairman in that case, there will be chaos and there cannot be any discipline. On merits also, she has submitted that the Chairman has jurisdiction to direct which class of the cases should be heard by Single Member Bench and by the Division Member Bench. It is also further submitted that earlier also the Chairman has passed various orders providing the pecuniary jurisdiction and has directed that the claim petitions / applications upto a pecuniary jurisdiction will be heard by the Single Member Bench and above that will be heard by the Division Member Bench and the said limit has been

enhanced from time to time only with a view to see that the claimants get speedier justice and that their cases are decided and disposed of at the earliest. It is also further submitted by her that sec.13 of the Act provides for General classes of cases and sec.4(4) of the Act confers powers upon the Chairman to decide which classes of cases should be heard by a Single Member. It is also further submitted by her that claim petition upto pecuniary jurisdiction valuation upto Rs.2 Lacs itself is a class of case and the cases above valuation of Rs.2 Lacs are class of another case and to fix pecuniary jurisdiction forms a class and therefore, the chairman has rightly issued order under sec.4(4) of the Act deciding the pecuniary jurisdiction upto Rs.2 Lacs for a Single Member Bench which is neither illegal nor without jurisdiction and therefore, it is requested to set aside the impugned orders by which the Member (Judicial) has quashed and set aside the order issued by the Chairman in exercise of the powers under sec.4(4) of the Act, as the same is without jurisdiction.

9. In response to the notice issued by this Court, Ms. Dharmishtha Raval, learned advocate appears on behalf of the respondent Nos. 4 and 5, more particularly Chairman, Railway Claims Tribunal, New Delhi. An Affidavit-in-reply is filed on behalf of the respondent Nos. 4 and 5. It is submitted in the reply that the Railway Claims Tribunal was constituted in the year 1989 for the speedy disposal of the cases involving the loss, destruction, damage, non-delivery and deterioration etc. of the goods entrusted to the Railways for carriage and for death or injury to the passengers in Railway accidents and untoward incident. It is also further submitted that presently the Claim Tribunal has 21 Benches including the Principal Bench in Delhi spread over 18 cities in 15 States of India. It is also further submitted that besides the Chairman, the Bench comprises of 4 Vice-Chairman and 37 Members. It is submitted that sec. 4(2) of the Act, Bench of Tribunal shall consist of one Judicial Member and one

Technical member and under sec.4(4) of the Act notwithstanding anything contained in sec.4(2) of the Act, it is competent for the Chairman or any other member authorized by the Chairman in this behalf to function as the Bench consisting of Single Member and exercise the jurisdiction, powers and authority of the Claims Tribunal in respect of such classes of cases or such matters pertaining to such classes of cases as the Chairman may by general or special order specify. It is also further submitted that in case of large number of vacancies in the Tribunal (presently there are 17 vacancies of Vice-Chairman and Member) both Member (Judicial) and Member (Technical) are not in position in many of the Benches and these Benches are presided over by a Single Member therefore, with a view to ensure that the Benches function smoothly and work does not suffer, the then Chairman of the Tribunal by an order dtd.12/3/1990 by virtue of the powers vested in him under sec.4(4) of the Act authorized all the Vice-Chairman and the Judicial Members of the

Tribunal to function as Bench consisting of Single Member and to exercise the jurisdiction, powers and authority of the Tribunal in respect of the claims entertainable under sub-clause(i) & (ii) of clause (a) of Sec.13(1) of the Act upto the valuation of Rs.1,000.00. It is also further submitted that the pecuniary jurisdiction of the Single Member Bench to try cases has been raised from time to time and by order dtd.14/9/2005, the Chairman in exercise of the powers conferred upon him under Sec.4(4) of the Act raised the pecuniary jurisdiction of the Single Member Bench in all the Benches of the Tribunal from Rs.1 Lac to Rs.2 Lacs. It is also submitted by Ms.Raval that the cases upto a particular valuation forms a class of cases which under sec.4(4) of the Act, Chairman is empowered to direct to be handled by Single Member Bench. It is also further submitted that the Tribunal does not have power of judicial review of an administrative order and the administrative order passed by the Chairman under sec.4(4) of the Act cannot be challenged before the

Tribunal nor the same can be quashed by any Bench of the Tribunal and the power of judicial review is vested only with the Courts. It is also further submitted by Ms.Raval that Sec.13 provides general classification of the cases and thereafter further powers are vested with the Chairman to issue general or special order to provide which class of cases can be dealt with by Single Member Bench or by the Division Member Bench. It is also further submitted by her that the pecuniary jurisdiction is not unknown to adjudication proceedings. It is further submitted by her that in the impugned order itself, the Member (Judicial) has specifically held that the Chairman has got powers to issue general or special order. It is also submitted by her that as stated hereinabove, sec.13 of the Act provides for general classification of the cases, such as compensation for loss, destruction, damage, compensation payable under sec.82A of the Railways Act and powers which were exercised by any Civil Court with respect of the claims for compensation now payable by the railway

administration under sec.124A of the Act and sec.4(4) of the Act confers powers upon the Chairman to issue general or special order to direct which class of cases can be dealt with by the Single Member Bench and the said order is administrative in nature, which could not have been set aside by the Member (Judicial). She has relied upon the judgment of the Hon'ble Supreme Court in the case of Kedar Nath Bajoru S/o.Ramjidas Bajoria & anr. Vs. The State of West Bengal, reported in AIR 1953 SC 404, in the case of Official Trustee, West Bengal and ors. Vs. Sachendra Nath & ors, reported in AIR 1969 SC 823 and in the case of K.Themmappa & Others Vs. Chairman Central Board of Directors SBI & Ors., reported in AIR 2001 SC 467, and requested to allow the present petition and quash and set aside the order passed by the Member (Judicial), Railway Claims Tribunal, Ahmedabad Bench, Ahmedabad, by which he has quashed and set aside the order passed by the Chairman, Railway Claims Tribunal, New Delhi dtd.14/9/2005 determining the pecuniary jurisdiction

and the classes of cases which can be dealt with by the Single Member Bench.

10.Dr.Sharma, Member (Judicial) is also heard at length.

According to him, the Railway Claims Tribunal is a special legislation. Sec.2(c) defines "Bench". Sec.2(e) defines "Claims Tribunal". Sec.2(f) defines "Judicial Member". Sec.2(i) defines "prescribed", means prescribed by rules. He has also relied upon sections 3, 4, 14, 15, and 21 of the Act. Mr.Sharma relying upon sec.4(2) of the Act, submitted that a Bench shall consist of one Judicial Member and one Technical Member and the Chairman has got powers to allocate cases to Single Member Bench or Division Member Bench with respect to only those cases as notified under sec.13 irrespective of the pecuniary jurisdiction. According to Dr.Sharma, classes of cases mentioned in sec.13 of the Act and/or notified by the competent authority under sec.13 of the Act. He has further submitted that there is no reference to pecuniary jurisdiction in the entire Act and the legislation has thought it fit not to classify the

cases on pecuniary jurisdiction and the legislation has thought it fit to classify the cases or the subject mentioned in sec.13 of the Act only and nowhere in the Act, there is reference to pecuniary jurisdiction and according to him, the Chairman has jurisdiction to allocate matters to the Single Member Bench only those class of classes as mentioned in sec.13 only. It is also further submitted relying upon Rule 3 that number of Benches, Headquarters of each Bench and the territorial jurisdiction of every said Bench shall be as specified in Schedule-I and it provides for territorial jurisdiction and as per the Schedule-I, there are 21 Benches notified. It is also further submitted by him that there are no basis for pecuniary jurisdiction while admitting that strictly speaking he may not have any jurisdiction i.e. the Member (Judicial) and/or any Member of the Tribunal would not have any jurisdiction to set aside the administrative order issued by the Chairman under sec.4(4) of the Act. However, he has submitted that when as a Member (Judicial) it has come

to his notice that the administrative order passed by the Chairman under sec.4(4) of the Act is without jurisdiction, he is not required to follow the same. He has also further submitted that by quashing and setting aside the order passed by him would lead to restore the order passed by the Chairman which is illegal and without jurisdiction. It is also further submitted that as such the petition itself is not not maintainable when the petitioners have participated in the proceedings. He has also further submitted that this Court has got all powers under sec.226 of the Constitution of India. Relying upon the judgment of the Hon'ble Supreme Court in the case of Anuj Suresh Saraogi and others Vs. State of Maharashtra and others, reported in AIR 2002 SC 444, it is submitted by him that any order which is dehors the rules, needs to be quashed and set aside and need not stand for test of law. Relying upon the judgment of the Hon'ble Supreme Court in the case of Oseph Mathai and others vs. M.Abdul Kadir, reported in AIR 2002 SC 110, it is submitted that under Article 227

of the Constitution of India, when a petition is filed, a grave injustice has to be shown. Relying upon the judgment of the Honourable Supreme Court in the case of UP State Road Transport Corporation and another Vs. Mohd.Ismail and others, reported in (1991) 3 SCC 239, it is submitted that the Chairman must act judiciously. Accordingly, it is submitted that irrespective of the fact whether he has got jurisdiction or not to set aside the administrative order passed by the Chairman under sec.4(4) of the Act, when by quashing and setting aside the impugned order, when the illegal order passed by the Chairman is likely to be restored in that case, the petition is required to be dismissed and therefore, it is requested to dismiss the present petition.

11.Heard the learned advocates appearing on behalf of the parties. The first and foremost point which is required to be considered by this Court is as to whether the Member (Judicial), Railway Claims Tribunal has

jurisdiction to set aside the administrative order passed by the Chairman, Railway Claims Tribunal in exercise of the powers under sec.4(4) of the Act or not. The Tribunal is established under sec.3 of the Act. Sec.4 provides for constitution of Claims Tribunal and Benches thereof. As per sec.4 of the Act the Tribunal shall consist of a Chairman , four Vice-Chairman and such number of Judicial Members and Technical Members as the Central Government may deem fit and subject to other provisions of the Act, the jurisdiction, power and authority of the Claims Tribunal may be exercised by Benches thereof and subject to other provisions of the Act, the Bench shall consist of one Judicial Member and one Technical Member. Sec.13 of the Act provides for jurisdiction power and authority of Claims Tribunal and the Claims Tribunal shall exercise all such jurisdiction and authority relating to the class of cases as mentioned ins ec.13(1),(a),(b),1(a) and sub-sec.2 of sec.13. Therefore, the Bench of the Tribunal has no jurisdiction to decide any dispute other than

mentioned in sec.13 of the Act. Thus, the Bench of the Tribunal has no jurisdiction to consider and/or set aside the administrative order issued by the Chairman under sec.4(4) of the Act and therefore, the impugned order passed by the Member (Judicial) quashing and setting aside the order by the Chairman in exercise of the power under sec.4(4) of the Act dtd.14/9/2005, by which the Chairman passed the order enhancing the pecuniary jurisdiction of the Single Member Bench from Rs.1 Lac to Rs.2 Lac, is without jurisdiction and the same cannot be sustained and the same is nullity. The Member (Judicial) and/or any Member of the Tribunal has no jurisdiction to set aside the administrative order passed by the Chairman and the power to set aside the administrative order of the Chairman vests with the Courts only i.e. either with the Civil Court, High Court or the Hon'ble Supreme Court. Under the circumstances, the impugned order passed by the Member (Judicial) requires to be quashed and set aside and the same are hereby quashed and set aside. At this

stage, it is required to be noted that even the Member (Judicial) who has passed the impugned order and who was heard by this Court has also fairly conceded that the technical speaking, he has no jurisdiction to set aside the order passed by the Chairman in exercise of the power under sec.4(4) of the Act. According to him, the said order passed by the Chairman is without jurisdiction and de hors the provisions of sec.13 of the Act and therefore, he has set aside the said order and this Court in exercise of the powers under Articles 226 and 227 of the Constitution of India may not disturb the same, as according to him by quashing and setting aside the order passed by him whereby he has set aside the illegal order passed by the Chairman without jurisdiction will be restored and will come into existence. Merely because, according to him, the administrative order passed by the Chairman is without jurisdiction, that does not confer any jurisdiction upon the said Member of the Tribunal to set aside the administrative order passed by the Chairman, for which

he has no jurisdiction at all. Therefore, the contention on behalf of the Member (Judicial) cannot be accepted.

12. Even if the case is considered on merits, then also there is no substance in the submissions of the Member (Judicial) that the Chairman has no jurisdiction to decide the pecuniary jurisdiction and/or direct the Single Member Bench to decide the claim applications having pecuniary jurisdiction upto Rs.2 Lacs. As per sub-sec.4 of sec.4 of the Act notwithstanding anything contained in foregoing provisions of sec.4 it shall be competent for the Chairman in this behalf to function as Bench consisting of Single Member and exercise jurisdiction, power and authority of the Claims Tribunal inspite of such classes of cases or such matters pertaining to such classes of cases, as the Chairman may, by general or special order notify. The contention on behalf of the Member (Judicial) is that as per sec.2 of sec.4, the Bench shall consist of one Judicial Member and one Technical Member and the Bench has to decide

and the Bench has to exercise jurisdiction and power and authority of the Claims Tribunal with respect of the classes of cases as provided in sec.13 of the Act only and therefore, the Chairman is required to issue a fresh order in terms of sec.4(4) read with sec.13 of the Act only. According to him, the Single Member Bench or the Division Member Bench of the Tribunal has to decide only those cases as mentioned in sec.13 of the Act irrespective of any pecuniary jurisdiction. Therefore, the question which is required to be considered by this Court is as to whether the Chairman in exercise of power under sec.4(4) of the Act can issue general or special order directing the Single Member Bench to exercise jurisdiction, power and authority of the Claims Tribunal with respect of cases having pecuniary jurisdiction upto Rs.2 Lacs or not and whether all such cases having claims upto Rs.2 Lacs can be said to be classes of cases or not. On going through the scheme of the Act, it appears that sec.13 of the Act provides for general classification of the cases

to be dealt with by the Claims Tribunal, such as, cases relating to responsibility of the railways administration as carriers under Chapter VII of the Railways Act in respect of claims for compensation for loss, destruction, damage, deterioration or non-delivery of animals or goods entrusted to a railway administration for carriage by railways; compensation payable under sec.82(A) of the Railways Act or the rules made thereunder; and in respect of the claims for refund of fares or part thereof or for refund of any freight paid in respect of animals or goods entrusted to a railway administration to be carried by railway all such jurisdiction, powers and authority as were exercisable immediately before that date by any civil court in respect of claims for compensation now payable by the railway administration under sec.124(A) of the Act or the rules made thereunder and other classes of cases as mentioned in sec.13 of the Act. Sec.4 of the Act provides for Constitution of Claims Tribunal and Benches thereof and as per sec.4(2) of the Act, subject

to the other provisions of the Act, a Bench shall consist of one Judicial Member and one Technical Member. Thus, all the aforesaid cases are required to be dealt with by Bench consists of one Judicial Member and one Technical Member subject to other provisions of the Act. Sec.4(4) of the Act provides that is shall be competent for the Chairman and other member authorized by the Chairman in this behalf to function as a Bench consisting of Single Member and exercise the jurisdiction, power and authority of the Claims Tribunal in respect of such class of cases or such matters pertaining to such class of cases as the Chairman may by general or special order specify. In exercise of the powers under sec.4(4) of the Act, the Chairman has issued an order authorizing Single Member Bench to exercise the jurisdiction, power and authority of the Claims Tribunal with respect of all the cases, which can be dealt with by the Tribunal by Single Member Bench upto pecuniary jurisdiction of Rs.2 Lacs. All those Claim Applications having claim upto Rs.2 Lacs now will be

form one class of cases and due to vacancy in the Tribunal in many of the places, Division Bench was not available and with a view to see that the claim petitions are disposed of as early as possible and forming class of cases upto pecuniary jurisdiction of Rs.2 Lacs to be dealt with by the Single Member Bench, an order is issued by the Chairman under sec.4(4) of the Act and therefore, it cannot be said that the same is in any way illegal and/or without jurisdiction and/or dehors the provisions of sec.13 or sec.4(4) of the Act. The contention on behalf of the Judicial Member that only those classes of cases as provided under sec.13 of the Act are to be dealt with by the Single Member Bench or the Division Bench irrespective of the pecuniary jurisdiction, cannot be accepted. The Chairman has jurisdiction to issue general or special order enabling the Single Member Bench to exercise the jurisdiction and decide the Claim Petition having pecuniary jurisdiction upto Rs.2 Lacs and exercise of such power cannot be said to be without jurisdiction and/or illegal.

In view of the above, the judgments cited at bar on behalf of the Judicial Member are of not much assistance to him, as this Court has held that the order passed by the Chairman dtd.14/9/2005 determining the pecuniary jurisdiction and the cases to be dealt with by the Single Member Bench upto jurisdiction of Rs.2 Lacs is well within its power, authority and jurisdiction of the Chairman under sec.4(4) of the Act. As rightly submitted by Ms.Raval, learned advocate appearing on behalf of the Chairman that the pecuniary jurisdiction is not unknown to adjudication proceedings. As stated above, the cases upto claim of Rs.2 Lacs are forming part of class of cases and order issued by the Chairman under sec.4(4) of the Act and/or confirming the jurisdiction and/or authorizing Single Member Bench to exercise jurisdiction of the Tribunal of the Claims Tribunal up to pecuniary jurisdiction of Rs.2 Lacs cannot be said to be in any way in conflict with sec.13 of the Act. Under the circumstances also, the impugned orders passed by the Member (Judicial) quashing and

setting aside the order passed by the Chairman, Railway Claims Tribunal, New Delhi, dtd.14/9/2005 are required to be quashed and set aside on merits also.

13. For the reasons as aforesaid, the petition succeeds, the impugned orders orders passed in Application No.OC-0500005 and in Application No.OC-0500010, by the Member (Judicial), Railway Claims Tribunal, Ahmedabad Bench, Ahmedabad dtd.6/10/2005 are hereby quashed and set aside. The order being Order No.RCD/DLI/Judicial Policy/02-03 dtd.14/9/2005 issued by the Chairman, Railway Claims Tribunal, Principal Bench, New Delhi in exercise of the powers under sub-sec. (4) of sec.4 of the Railways Claims Tribunal Act, 1987 enhancing pecuniary jurisdiction of the Single Member Bench in all the Benches of the Railway Claims Tribunal from Rs.1 Lac to Rs.2 Lacs is hereby restored. Rule is made absolute to the aforesaid extent only. However, there will be no order as to costs.

(M.R.SHAH,J.)

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